

**Notice of Allowability**

Application No.

10/799,324

Applicant(s)

CONNOLLY ET AL.

Examiner

Art Unit

Brian J. Davis

1621

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to applicant's AF amendment (12/23/05).
2. ☒ The allowed claim(s) is/are 14-201 [renumbered 1-188].
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date <u>12/23/05</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                               | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|  | 9. <input type="checkbox"/> Other _____.   |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

All references on the IDS submitted on 12/23/05 have been lined-through because this IDS is a duplicate of the IDS already of record and whose references have already been considered by the examiner.

### ***112 Rejections Withdrawn***

The rejection of claims 25, 42, 59, 77, 94, 111, 128, 145, 162, 179, 196, 213 and 230 under 35 USC 112, second paragraph, outlined in the previous Office Action, has been overcome by applicant's amendment. With respect to claims 213 and 230, the amendment cancels the claims. With respect to the remaining claims, the claim text has been clarified as suggested by the examiner.

The rejection of claims 26-30, 43-47, 60-64, 78-82, 95-99, 112-116, 129-133, 146-150, 163-167, 180-184, 197-201, 214-218 and 231-235, also rejected under 35 USC 112, second paragraph, as being indefinite because they depended from an indefinite claim, is withdrawn. With respect to claims 214-218 and 231-235, the amendment cancels the claims. With respect to the remaining claims, the rejection is now moot.

***Double Patenting Rejections Withdrawn***

The rejection of claims 66-82 under the judicially created doctrine of obviousness-type double patenting, outlined in the previous Office Action, has been overcome by applicant's submission of a Terminal Disclaimer.

***103 Rejections Withdrawn***

The rejection of claims 219-235 in so far as they read on the species defined in the previous Office Action, under 35 USC 103(a), has been overcome by applicant's amendment. The amendment cancels the claims.

***Allowable Subject Matter***

Claims 14-201 are allowed. The following is an examiner's statement of reasons for allowance:

The closest prior art remains the prior art of record. During the course of prosecution, applicant has narrowed/canceled claims such that they no longer read on the cited art, or has submitted an acceptable Terminal Disclaimer, as appropriate. The cited prior art neither teaches nor suggests the instant compounds and compositions. Nor would it have been obvious to one of ordinary skill in the art at the time of invention to modify the compounds or compositions of the prior art in order to arrive at those of the instant invention. There is no motivation to do so.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Davis whose telephone number is 571-272-0638. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 **BRIAN DAVIS  
PRIMARY EXAMINER**

Brian J. Davis  
January 16, 2006